

9. Appealing Case Managers' Decisions

The resident and adult care home provider have the right to request a hearing to review an ACH/CMS case manager's decision to deny, continue, change, or discontinue Enhanced ACH/PC and ACH/CMS coverage if either of them disagree with the decision. An ACH/CMS case manager's decisions about a resident's coverage may be reviewed at an informal local hearing, at a state hearing, or by the Office of Administrative Hearings (OAH). This section outlines the process for requesting hearings to review an ACH/CMS case manager's decision. It also includes guidance on billing for Enhanced ACH/PC when a hearing decision is pending and after the hearing decision is made. The resident's actions discussed throughout this section may be undertaken by the resident or the resident's representative such as a family member or friend. Whenever the material states that the "resident" may act, this means the resident's representative also.

9.1 The Local Hearing Process

The first step in resolving a disagreement over a resident's coverage is to request a local hearing. The local hearing may not be waived in order to proceed directly to a state hearing.

9.1.1 How to Request a Local Hearing

The resident and adult care home provider have 60 days (plus an additional 30 days with good cause) from the date of the case manager's Decision Notice in which to request a local review. The resident or adult care home provider makes the request for a local hearing directly to the ACH/CMS provider agency: the county department of social services or area mental health program, that is responsible for providing the case manager who made the coverage decision. The request may be made orally or in writing.

9.1.2 When Will the Local Hearing Be Held

The ACH/CMS provider must hold the local hearing within 10 calendar days of the request unless the resident or adult care home provider postpones the review. If the resident or adult care home postpones the review more than 15 days from the date of the original request for a review, the right to a local review is waived.

9.1.3 How Will You Be Notified of the Date and Place

The ACH/CMS provider will send the resident and adult care home provider written notification of the date, time, and place of the local hearing. The notice will inform the resident and adult care home provider of their right to:

- be present at the hearing;
- examine at a reasonable time before the date of the hearing and during the review all documents to be used by the ACH/CMS provider agency at the hearing;
- bring witnesses;
- establish pertinent facts and circumstances;
- present an argument without undue interference; and
- question or refute any testimony or evidence.

9.1.4 What Will Happen at the Local Hearing

The local hearing is conducted by the ACH/CMS provider agency's hearing officer or

designee, an impartial official who was not directly involved in making the decision to deny, continue, change, or discontinue Enhanced ACH/PC and ACH/CMS coverage.

The proceedings are informal. The ACH/CMS case manager presents information explaining the decision. The resident and/or adult care home provider must be given the opportunity to present their position.

9.1.5 Getting Paid When a Local Hearing Decision Is Pending

When a local hearing decision is pending, the ACH/CMS provider will provide case management services for the resident and you may file claims for the Basic ACH/PC payment rate or the previously authorized Enhanced ACH/PC payment rate that is being contested for dates of service on or after the effective date in the case manager's decision. Exercise caution in billing an Enhanced ACH/PC payment rate. If the local hearing decision upholds the case manager's decision, you must return any overpayments that were made for dates of service on or after the effective date in the case manager's decision. You are also responsible for adjusting any underpayments made for dates of service on or after the effective date of the case manager's decision (see Section 13). Questions about refunding payments and claims adjustments should be addressed to the EDS' Provider Services Unit. The telephone number and address for EDS' Provider Services Unit is in Appendix B.

9.1.6 The Local Hearing Decision

The local hearing decision is made by the ACH/CMS provider agency's hearing officer who conducted the hearing. The decision is based only on the testimony and documentation presented at the hearing. The hearing officer will send a notice to the resident and a copy to the adult care home provider of the local hearing decision in writing by certified mail within ten calendar days of the hearing. The local hearing decision notice will explain whether the case manager's original decision to deny, continue, change, or discontinue Enhanced ACH/PC and ACH/CMS coverage is correct or incorrect. The local hearing decision must include the following information:

- an explanation of the local hearing decision;
- reference to the specific policy on which the local hearing decision was based;
- a statement that the resident and adult care home provider has the right to request further review of the decision by the state; and
- procedures for requesting a state hearing.

9.1.7 How the Local Hearing Decision Affects Enhanced ACH/PC Payments

Whether you are entitled to Medicaid Enhanced ACH/PC payments for dates of service on or after the effective date of the case manager's decision, depends on the outcome of the local hearing, and if the local hearing decision is also appealed. The possible outcomes for a local hearing and how these affect payments are outlined below. The outcomes are grouped according to the type of decision.

- **Decision to Deny or Discontinue Enhanced ACH/PC and ACH/CMS Coverage**

- ♦ **Decision Upheld:**

If the case manager's decision to deny or discontinue Enhanced ACH/PC and ACH/CMS coverage is upheld by the local hearing decision, Medicaid will not pay for Enhanced ACH/PC for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS will be discontinued on the date of the local hearing decision notice.

- ♦ **Decision Reversed:**

If the case manager's decision to deny or discontinue coverage is reversed by the local hearing decision, Medicaid will pay for Enhanced ACH/PC for dates of service on and after the effective date in the case manager's Decision Notice, as authorized by the local hearing decision. ACH/CMS coverage will continue also.

- **Decision to Continue the Current Level of Enhanced ACH/PC Payments**

- ♦ **Decision Upheld:**

If the case manager's decision to continue the current level of Enhanced ACH/PC payment is upheld by the local hearing decision, Medicaid will continue to pay the current level of Enhanced ACH/PC payment authorized by the case manager for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS coverage will continue also.

- ♦ **Decision Reversed:**

If the case manager's decision to continue the current level of Enhanced ACH/PC payment is reversed by the local hearing decision, Medicaid will pay the level of Enhanced ACH/PC payment authorized by the local hearing decision, for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS coverage will also continue.

- **Decision to Change the Level of Enhanced ACH/PC Payments**

- ♦ **Decision Upheld:**

If the case manager's decision to change the level of Enhanced ACH/PC payment is upheld by the local hearing decision, Medicaid will pay for the new level of Enhanced ACH/PC payment as authorized by the case manager, for dates of service on and after the effective date for the change in the case manager's Decision Notice. ACH/CMS coverage will also continue.

◆ Decision Reversed:

If the case manager's decision to change the level of Enhanced ACH/PC payment is reversed by the local hearing decision, Medicaid will continue to pay for the current level of Enhanced ACH/PC payment for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS coverage will also continue.

9.2 Requesting a State Hearing After a Local Hearing

If you or the resident are dissatisfied with the outcome of the local hearing decision, either or both may request a state hearing. The request must be made in writing to the ACH/CMS provider within 15 calendar days of the date of the local hearing decision.

If you request a state hearing, the ACH/CMS provider will prepare a "Request for State Appeal" and forward it to the North Carolina Division of Social Services (DSS) or the North Carolina Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS), as appropriate. A copy of the request will be sent to DMA's Adult Care Home Services Unit.

9.2.1 How Will You Be Notified of the Date and Place

A state hearing officer from the state DSS or state DMH/DD/SAS will schedule the hearing, hold the hearing, and make the hearing decision within 90 calendar days of the date of the request. The state hearing officer will notify you, the resident, and the ACH/CMS provider of the date, time, and location of the state hearing in writing. This notification must be mailed at least 15 calendar days before the date of the state hearing.

9.2.2 The Local Hearing Summary

Prior to the date of the state hearing, the case manager will prepare a local hearing summary and send it to the state hearing officer at the DSS or DMH/DD/SAS for review. The local hearing summary will contain the following information:

- resident's name, address, and Medicaid identification number;
- description of the issue, including the reason(s) for denying, continuing, changing, or discontinuing Enhanced ACH/PC and ACH/CMS coverage;
- references to the specific state policy supporting the decision, including copies of the policy;
- a summary of the proceedings at the local hearing, including all testimony and documentation presented;
- a copy of the Decision Notice sent to the resident and adult care home;
- a copy of the notice of the local hearing decision; and
- the ACH/CMS case manager's name, title, address, and telephone number.

9.2.3 What Will Happen at the State Hearing

A hearing officer for the state DSS or state DMH/DD/SAS will conduct the state hearing. State hearings are usually held at the county department of social services or area mental health program's offices. You or your representative, the resident, and the case manager may participate in the hearing to verify the accuracy of the information and provide information and clarification as requested by the hearing officer.

9.2.4 Getting Paid When a State Hearing Decision Is Pending

When a state hearing decision is pending, the ACH/CMS provider will provide case management services for the resident. You may file claims for the Basic ACH/PC payment rate or a currently authorized Enhanced ACH/PC rate for dates of service on or after the effective date in the case manager's decision.

9.2.5 The State Hearing Decision

The state hearing officer will notify the resident of the state hearing decision by certified mail within 90 days of the request for the state hearing. The state hearing officer will forward a copy of the state hearing decision to you, the case manager, and DMA's Adult Care Home Services Unit.

The State Hearing Decision Notice will include the following information:

- a summary of the facts of the case;
- an explanation of the state hearing decision;
- the reasons for the decision;
- the supporting evidence and policies upon which the state hearing decision is based;
- an explanation of how Enhanced ACH/PC payments and ACH/CMS coverage are affected by the decision; and
- the following statement:
“If you are not satisfied with the decision of the agency during the informal dispute resolution process, you may request a formal appeal hearing under N.C. General Statute 150B. To do this, fill out the enclosed Petition for a Contested Case Hearing. You have 60 days from the date of this letter to send this petition to the Office of Administrative Hearings and the Department of Human Resources at the addresses printed on the petition. You may represent yourself at this hearing or use a lawyer, a relative, a friend, or other spokesperson.” and
- a copy of a “Petition for a Contested Case Hearing” (Form H-06).

9.2.6 How the State Hearing Decision Effects Enhanced ACH/PC Payments

If the local hearing decision is reversed at the state level, the case manager will notify DMA's Adult Care Home Services Unit immediately and authorize services as directed by the state hearing decision. The possible outcomes for a state hearing and how these affect payments are described below. The outcomes are grouped according to the type of the case manager's decision.

- **Decision to Deny or Discontinue Enhanced ACH/PC and ACH/CMS Coverage**

- ♦ **Decision Upheld:**

If the local hearing decision to deny or discontinue Enhanced ACH/PC and ACH/CMS coverage is upheld by the state hearing decision, Medicaid will not pay for Enhanced ACH/PC coverage for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS is discontinued on the date of the state hearing decision notice.

- ◆ **Decision Reversed:**

If the local hearing decision to deny or discontinue Enhanced ACH/PC and ACH/CMS coverage is reversed by the state hearing decision, Medicaid will pay for Enhanced ACH/PC and ACH/CMS as authorized in the State Hearing Decision for dates of service on and after the effective date in the case manager's Decision Notice.

- **Decision to Continue the Current Level of Enhanced ACH/PC Payments**

- ◆ **Decision Upheld:**

If the local hearing decision to continue the current level of Enhanced ACH/PC payment is upheld by the State Hearing Decision, Medicaid will pay for the current level of Enhanced ACH/PC payment authorized by the case manager for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS coverage will also continue.

- ◆ **Decision Reversed:**

If the local hearing decision to continue the current level of Enhanced ACH/PC payment and ACH/CMS coverage is reversed by the State Hearing Decision, Medicaid will pay for the level of Enhanced ACH/PC payment authorized in the State Hearing Decision Notice, for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS coverage will also continue.

- **Decision to Change the Level of Enhanced ACH/PC Payments**

- ◆ **Decision Upheld:**

If the local hearing decision to change the level of Enhanced ACH/PC coverage is upheld by the State Hearing Decision, Medicaid will pay for the new level of Enhanced ACH/PC payment authorized by the case manager, for dates of service on and after the effective date for the change in the case manager's Decision Notice. ACH/CMS coverage will also continue.

- ◆ **Decision Reversed:**

If the local hearing decision to change the level of Enhanced ACH/PC coverage is reversed by the State Hearing Decision, Medicaid will pay for the current level of Enhanced ACH/PC payment as authorized in the State Hearing Decision for dates of service on and after the effective date in the case manager's Decision Notice. ACH/CMS coverage will also continue.